

RESOLUTION NO. 2010-22

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING AND APPROVING A PROPOSAL AND CONTRACT WITH SUNSET SOD, INC. FOR THE PURCHASE AND INSTALLATION OF SOD FOR VILLAGE FIELDS; PROVIDING FOR EXEMPTION FROM COMPETITIVE BIDDING AND WAIVER OF COMPETITIVE BIDDING; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne, Florida (the “Village”) wishes to engage Sunset Sod, Inc. (“Sunset Sod”) for the purchase and installation of sod for the fields located at Village Green North, Village Green South, and St. Agnes (the “Work”); and

WHEREAS, Sunset Sod has agreed to perform the Work; and

WHEREAS, the Village and Sunset Sod wish to enter into a contract for the Work, pursuant to the terms of the proposal attached hereto as Exhibit "A" to this Resolution (the "Proposal"); and

WHEREAS, it is necessary to expeditiously proceed with the procurement and installation of the Work; and

WHEREAS, the Village Council finds, upon advice from the Village Attorney, that the purchase and installation of the Work, is exempt from competitive bidding, as being based upon the bid of another government agency, pursuant to Section 2-86 of the Village Code; and

WHEREAS, that the competitive bidding procedures for the purchase and installation of the Work may also be waived by the Village Council pursuant to Village Code Section 2-85 upon the Council finding, as is hereby found, that it is impractical to apply such competitive bidding procedures in light of the need to expeditiously complete the purchase and installation of the Work; and

WHEREAS, the Village Council has determined that it is in the best interests of the Village to do the Work and to approve a contract with Sunset Sod based on the Proposal attached hereto as Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. **Authorization and Approval.** The Village Council hereby authorizes and approves a contract with Sunset Sod, Inc. pursuant to the terms of the Proposal attached hereto as Exhibit "A," authorizes the Village Manager to execute the contract on behalf of the Village once approved as to form and legal sufficiency by the Village Attorney, and authorizes the expenditure of funds as detailed in the attached Proposal.

Section 3. **Waiver of Competitive Bidding.** That pursuant to Village Code Sections 2-85 and 2-86, competitive bidding procedures of the Village Code are hereby waived for the above described purchase and installation of the Work.

Section 4. **Implementation.** The Village Manager is hereby authorized to take any and all action necessary to implement the Proposal and this Resolution in accordance with its terms and conditions.

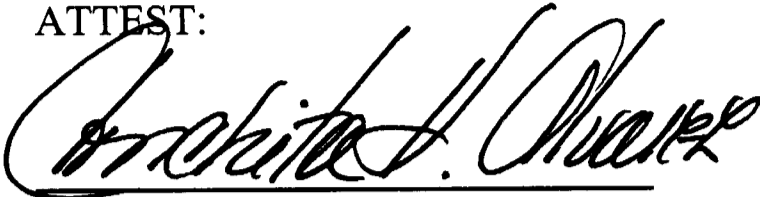
Section 5. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this 8th day of June, 2010.



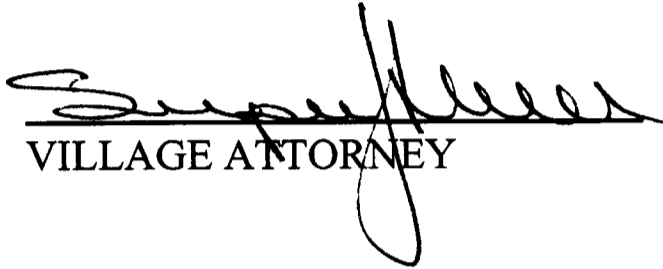
MAYOR ROBERT L. VERNON

ATTEST:



CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



VILLAGE ATTORNEY

**VILLAGE OF KEY BISCAYNE
AGREEMENT FOR PURCHASE AND INSTALLATION OF SOD**

THIS AGREEMENT FOR PURCHASE AND INSTALLATION OF SOD (this "Agreement") is made and entered into with an effective date of June 14, 2010 (the "Effective Date"), by and between the VILLAGE OF KEY BISCAYNE, a Florida municipal corporation (the "VILLAGE") and SUNSET SOD, INC., a Florida corporation (the "CONTRACTOR").

RECITALS:

WHEREAS, the VILLAGE wants to purchase sod and engage the services of the CONTRACTOR for the installation of the sod at designated locations in two phases (the "Project"), as specifically described in the Scope of Services attached as Exhibit "A" to this Agreement (the "Specified Services"), and the CONTRACTOR has agreed to provide such Specified Services.

WHEREAS, the CONTRACTOR and VILLAGE, through mutual negotiation, have agreed upon the Scope of Services, a schedule, and fee to engage the CONTRACTOR to perform the Specified Services as specified below.

NOW, THEREFORE, In consideration of the mutual covenants and conditions set forth in this Agreement, the CONTRACTOR and VILLAGE agree as follows:

1. **SCOPE OF SERVICES**

A. The CONTRACTOR agrees to provide and perform the Specified Services upon written request or notice to proceed from the Village Manager or his designee, in accordance with the CONTRACTOR'S proposal and pricing of May 26, 2010 (the "Proposal") attached hereto as Exhibit "B", and in accordance with this Agreement. The Proposal shall constitute a part of the Agreement.

B. The Village Manager may add items or additional work or services to the

enumerated Specified Services which he finds are necessary for the satisfactory and complete installation of the Project.

C. CONTRACTOR shall expend all necessary efforts to competently and skillfully complete all tasks of the sod installation so that the Project is timely, successfully and fully implemented. CONSULTANT shall expend all necessary efforts to competently and professionally complete all tasks in accordance with the schedule set forth in the Scope of Services attached hereto as Exhibit "A" and as approved by the Village Manager or his designee.

D. CONTRACTOR shall work under the guidance of the Village Manager or his designee, and shall accomplish the Project installation pursuant to this Agreement and the Scope of Services attached hereto as Exhibit "A."

2. **FEES FOR SERVICES**

A. As full compensation for satisfactory performance of the Specified Services, including all labor, supplies, materials, equipment, delivery and installation services for Phases 1 and 2, of the Project, the CONTRACTOR agrees to charge and shall be paid by the Village, based upon the pricing set forth in the Proposal attached hereto as Exhibit "B," an amount not to exceed One Hundred and Five Thousand, Eight Hundred and Fifty Five and 00/100 Dollars (\$105,855.00) (the "Contract Price").

B. Upon execution of this Agreement and the Village's written request or notice to proceed on Phase 1, an initial payment of fifty (50%) percent of the total Contract Price for work and services to be performed in Phase 1, in accordance with the pricing set forth in the Proposal attached hereto as Exhibit "B," shall be payable by VILLAGE to CONTRACTOR to be utilized by CONTRACTOR to procure the necessary sod or materials. Thereafter, the remaining portion of the Contract Price for Phase 1 shall be paid within one (1) week of completion of the installation of the

sod and all work and services for said Phase 1 and approval and acceptance of the work as satisfactorily completed, as determined by the Village Manager or his designee.

C. Upon the Village's written request or notice to proceed on Phase 2, an initial payment of fifty (50%) percent of the total Contract Price for work and services to be installed in Phase 2, in accordance with the pricing set forth in the Proposal attached hereto as Exhibit "B," shall be payable by VILLAGE to CONTRACTOR to be utilized by CONTRACTOR to procure the necessary sod or materials. Thereafter, the remaining portion of the Contract Price for Phase 2 shall be paid within one (1) week of completion of the installation of the sod and all work and services for said Phase 2, and approval and acceptance of the work as satisfactorily completed, as determined by the Village Manager or his designee.

D. CONTRACTOR shall execute a release of lien in a form satisfactory to the VILLAGE prior to delivery of final payment hereunder.

3. **TERM**

The duration of the term of this Agreement shall commence upon the Effective Date hereof and shall terminate upon the final completion and acceptance by the VILLAGE of the sod installation and all work and services, but in no event later than July 31, 2010, unless extended by the Village Manager or earlier terminated pursuant to paragraph 8.

4. **RECORDS**

Any and all original sketches, tracings, drawings, computations, details, reports, calculations, work papers and other documents and plans that result from the CONTRACTOR providing Specified Services shall be the property of the VILLAGE. Upon termination of this Agreement or upon request of the VILLAGE during the term of this Agreement, any and all such documents shall be delivered to the VILLAGE by the CONTRACTOR.

5. **INSURANCE**

A. The CONTRACTOR shall at all times carry comprehensive general liability and contractual liability insurance, workers' compensation insurance (if applicable), and automotive liability insurance, with minimum policy limits for each coverage in the amount of at least One Million (\$1,000,000.00) Dollars per occurrence, combined single limit, for property damage and bodily injury, including death, except that the dollar amount of workers compensation coverage (if applicable) shall be as provided by Chapter 440, Florida Statutes. The VILLAGE shall be named as an additional insured on all of the above insurance policies, to the extent permitted by law. Each insurance policy shall state that it is not subject to cancellation or reduction in coverage without written notice to the VILLAGE 30 days prior to the effective date of cancellation or reduction of coverage.

B. CONTRACTOR shall indemnify and hold harmless the VILLAGE, its officers, agents and employees, from and against any and all demands, claims, losses, costs, suits, liabilities, causes of action, judgment or damages, including, but not limited to, reasonable attorneys' fees, arising out of, related to, or in any way connected with CONTRACTOR'S performance or non-performance of this Agreement, including, but not limited to, negligence, recklessness or intentional wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of the Agreement.

6. **ASSIGNMENT**

This Agreement shall not be assignable by the CONTRACTOR, unless such assignment is first approved in writing by the VILLAGE Manager, in his sole discretion.

7. **PROHIBITION AGAINST CONTINGENT FEES**

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

8. **TERMINATION**

This Agreement may be terminated by the VILLAGE upon five (5) days written notice to the CONTRACTOR, or immediately with cause. Upon receipt of the VILLAGE'S written notice of termination, the CONTRACTOR shall stop all work on the Project, unless directed otherwise by the VILLAGE Manager. The parties recognize that other provisions of this Agreement serve as consideration for this paragraph 8. If this Agreement is so terminated, the CONTRACTOR shall be paid in accordance with the provisions of paragraph 2 for all acceptable work performed up to the date of termination. In the event that VILLAGE terminates this Agreement because of CONTRACTOR'S default or breach, CONTRACTOR shall refund to VILLAGE any portion of the initial payment which exceeds the value and cost of work which has been satisfactorily performed or installed.

9. **NONEXCLUSIVE AGREEMENT**

The services to be provided by the CONTRACTOR pursuant to this Agreement shall be nonexclusive and nothing herein shall preclude the VILLAGE from engaging other firms to perform the same or similar services for the benefit of the VILLAGE within the VILLAGE's sole and absolute discretion.

10. **ENTIRE AGREEMENT**

The parties hereby agree that this is the entire agreement between the parties. This Agreement cannot be amended or modified without the express written consent of the parties. The Village Manager shall act for VILLAGE hereunder.

11. **WARRANTIES OF CONTRACTOR; COMPLIANCE WITH LAWS.**

The CONTRACTOR hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications, permits and insurance required under Federal, State and local laws necessary to perform the Specified Services for VILLAGE as an independent contractor of the VILLAGE. The CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

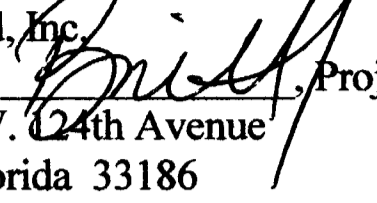
12. **NOTICES**

All notices and communications to the VILLAGE or CONTRACTOR shall be in writing and shall be deemed to have been properly given if transmitted by registered or certified mail or hand delivery. All notices and communications shall be effective upon receipt. Notices shall be addressed as follows:

Village: Genaro "Chip" Iglesias
Village Manager
Village of Key Biscayne
88 West McIntyre Street
Key Biscayne, FL 33149
Telephone: (305) 365-5514

With a copy to: Village Attorney
c/o Weiss Serota Helfman Pastoriza
Cole & Boniske, P.L.
2525 Ponce De Leon Boulevard
Suite 700
Coral Gables, Florida 33134
Telephone: (305) 854-0800

CONTRACTOR :

Sunset Sod, Inc.
Attention: , Project Manager
13100 S.W. 124th Avenue
Miami, Florida 33186
Telephone: (305) 253-2002

13. **GOVERNING LAW; LITIGATION**

This Agreement shall be construed in accordance with the laws of the State of Florida. Venue for any litigation hereunder shall be in Miami-Dade County, Florida. The parties voluntarily waive the right to any trial by jury in any litigation hereunder.

14. **COUNTERPARTS.**

This Agreement may be executed in counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement as of the Effective Date first written above.

VILLAGE:

VILLAGE OF KEY BISCAIYNE, FLORIDA
a Florida municipal corporation

By: [Signature]
Genaro "Chip" Iglesias, Village Manager

Dated Executed: 6/16/10

[Signature]
Attest.
Village Clerk

Approved as to Form and Legal Sufficiency:

[Signature]
Village Attorney

CONTRACTOR:

SUNSET SOD, INC.,
a Florida corporation

By: [Signature]
Name: BRIAN HERNANDEZ
Title: V. President

Date Executed: [Signature]

[Signature]
KATHLEEN HERNANDEZ
Notary Public - State of Florida
My Commission Expires Nov 8, 2010
Commission # DD 598723
Bonded by National Notary Assn.

Exhibit “A”

Scope of Services

A. Sunset Sod will be providing and installing 165,000 square feet of sod at the locations designated by the Village, upon written notice to proceed issued for each Phase by the Village Manager or his designee. Said work shall include the replacement and installation of new sod, scarify area, spreading of sand as needed, and removal of debris. All work shall be paid by the Village pursuant to the Proposal on per square foot cost of sod actually installed and accepted and approved by the Village.

B. Phase 1 consists of the installation of sod at the Village Green North and St. Agnes Fields, and shall be completed no later than June 23, 2010.

C. Phase 2 consists of installation of sod at Village Green South. The Village intends to issue a notice to proceed to the Contractor by July 2, 2010, and all work and services shall be completed by the Contractor by no later than July 16, 2010.

D. CONTRACTOR shall furnish any and all necessary labor, supplies, equipment, materials, sod and delivery to fully install and complete the Project as required by the Village.

Exhibit “B”

Proposal



V I L L A G E O F K E Y B I S C A Y N E

Office of the Village Manager

MEMORANDUM

Village Council
Robert L. Vernon, *Mayor*
Enrique Garcia, *Vice Mayor*

Michael W. Davey

Robert Gusman

Michael E. Kelly

Jorge E. Mendia

Thomas Thornton

DATE: June 2, 2010

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager

Village Manager

Genaro "Chip" Iglesias

RE: Sod Installation for the Village Green and St. Agnes

RECOMMENDATION

It is recommended that the Village Council approve the Resolution permitting an agreement to be executed for the installation of sod by Sunset Sod, Inc.

BACKGROUND

The fields located at the Village Green North, Village Green South, and St. Agnes requires an estimated total of 165,000 square feet of sod. The Village requested estimates from eleven (11) different sod providers. The Village received quotes from three qualified vendors.

The Village drafted an agreement for the installation of sod for the lowest qualified respondent. A time table for the installation of the sod was agreed upon by both parties. On Tuesday, June 1, 2010, the contractor informed the Village that it would no longer be able to meet the previously established timeline. The Village then contacted Sunset Sod, Inc. who was recommended by both the City of Miami Beach and Miami Dade County Parks and Recreation Department. Sunset Sod stated they could meet the timeline required and beat the price of the original vendor with whom the Village had negotiated an agreement. The resulting quotes for 165,000 square feet of sod delivered and installed were as follows:

Sunset Sod	\$105,855
Odum's Sod	\$105,930
A1A Sand and Soil	\$108,800

Sunset Sod will be able to initiate phase one of the sod replacement program on June 14, 2010. Phase one will replace the sod on the Village Green north field. The Village

will evaluate the work product provided by Sunset Sod and determine whether to utilize Sunset Sod for the second phase of the sod replacement program. The second phase of the sod replacement will include the Village Green south and the St. Agnes field.

The second phase is scheduled to begin on July 12, 2010. An agreement will be brought to the Village Council at the July 6, 2010 Council Meeting to either continue with Sunset Sod or another vendor for phase two.

The cost of the sod replacement program for the Village Green north, Village Green south, and St. Agnes shall not exceed the \$105,855 quote provided by Sunset Sod. This project will be funded in the Playing Field Reserve allocation in the Capitol Reserve. This line item has a current balance of \$416,403. The Village Green south field lighting funding of \$198,980 to be funded from this reserve resulting in a balance of \$217,423. If the sod replacement program is approved, the resulting balance in the Playing Field Reserve would be \$111,568.

EXHIBIT “A”

Proposal from Sunset Sod, Inc.

(copy to be attached)

SUNSET SOD, INC.

**P.O. Box 160744
Miami, Florida 33116
305-253-2002
Fax-786-242-9988**

Estimate

Date	Estimate #
5/26/2010	3352

Name / Address

**City of Key Biscayne
88 W. McIntyre Street
Key Biscayne, Fl 33149
Todd-786-255-6771
thofferberth@keybiscayne.fl.gov**

Project

Description	Qty	Cost	Total
Celebration Rolls Installed	165,000	0.395	65,175.00T
Scarify Area / Spread sand as needed	165,000	0.16	26,400.00T
Sand 18 yd lds	7	340.00	2,380.00T
Removal of debris	28	425.00	11,900.00
Job to be done in 2 phases City to provide MOT for off loading sod so not to damage pavers.			
We appreciate your Business !!		Subtotal	\$105,855.00
		Sales Tax (0.00)	\$0.00
		Total	\$105,855.00

Signature



Odums' Sod, Inc.

13961 Okeechobee Blvd.
Loxahatchee, FL 33470

Phone #: (561) 333-7416 ♦ Fax #: (561) 333-7455

PROPOSAL SUBMITTED TO:

Phone: (305) 365-8900

Date: May 6, 2010

Name: Village of Key Biscayne

Job Name: Greenway North, Greenway South and

Street: 10 Village Green Way

Street: St. Agnus Catholic Church Field

City: Key Biscayne State: FL Zip:

City: Key Biscayne State: FL

ATTN: Todd

Fax: (305) 365-8991

We hereby submit specifications and estimates for:

Either Bermuda 419 or Celebration Bermuda

(Greenway No. @95,000, Greenway So. @30,000 and St. Agnus Field @40,000 = 165,000 sq. ft.)

Total: 165, 000 sq. ft. x .642 = \$105,930.00

****Per School District of Palm Beach County Term Contract # 07-12A****

**UNLESS OTHERWISE NOTED THIS QUOTE DOES NOT INCLUDE GRADING,
WATERING, FERTILIZING, ROLLING OR ANY TYPE OF TRAFFIC CONTROL.**

One hundred and five thousand, nine hundred and thirty dollars (\$105,930.00) with payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra cost will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. This proposal subject to acceptance within **60** days and is void there after at the option of the undersigned.

Authorized Signature: James W. Hammond

James W. Hammond, Manager

ACCEPTANCE OF PROPOSAL

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

ACCEPTED:

Signature: _____

Date of Acceptance: _____

Signature: _____



SOD SAND & SOIL

28400 SOUTH DIXIE HWY., HOMESTEAD, FL 33033
PH: 305-245-4445 FAX: 305-675-0832
E-MAIL: info@alasod.com

Estimate

Date	Estimate #
5/12/2010	1243

Name / Address
VILLAGE OF KEY BISCAYNE 88 W Mc Intyre St KEY BISCAYNE, FL 33140 PH: 305-365-8900 EXT 1213 FAX: 305-365-8991 ATTN: TODD HOFFERBERTH

P.O. No.	Terms	Due Date	Ship To		
	50/50	5/12/2010	10 VILLAGE GREEN WAY		
Item	Description		Qty	Cost	Total
BERMUDA SOD ...	BERMUDA SOD SQ. FT.		160,000	0.68	108,800.00
We look forward to doing business with you.					

Customer acknowledges receipt of the type of product(s) shown above and that sod, plant and trees are perishable goods which must be rejected at the time of delivery, if non-conforming. Customer acknowledges that all sales are final and Seller provides no warranties for installation or products.

A1A Sod, Sand & Soil guarantees the sod will be delivered in good, healthy conditions. Since we have no control over installation methods, watering, existing soil conditions, insects, weather, or sod left on the pallet past the day of delivery, our liability terminates upon the customers acceptance of the product.

Customer agrees that should it be necessary to employ an attorney to enforce the terms of this contract on the Customer, Customer agrees to reimburse Seller all cost of collection, including attorney's fee's, court cost and other applicable expenses, including appeal. Customer agrees to pay finance charge of one and one half percent per month on all overdue accounts. A service charge will be assessed on unpaid accounts that become past due according to terms of sale at a periodic rate of 1.5%-18% per annum.

A1A Sod, Sand & Soil is not responsible for damages to property caused by equipment entering job site upon instruction of the owner, contractor or representative of same. All delivered prices are for street curb delivery except where curb and sidewalk are entirely bridged & protected. Good road conditions must exist to actual point of delivery inside the curb.

To accept this quotation, sign here and return: _____

Subtotal	\$108,800.00
Sales Tax (7.0%)	\$0.00
Total	\$108,800.00